



Department
for Business
Innovation & Skills

TRANSFER OF A FURTHER
EDUCATION CORPORATION TO THE
HIGHER EDUCATION SECTOR

Guidance for Further Education
Corporations: Criteria and
process for applying to transfer
from the further education to the
higher education sector

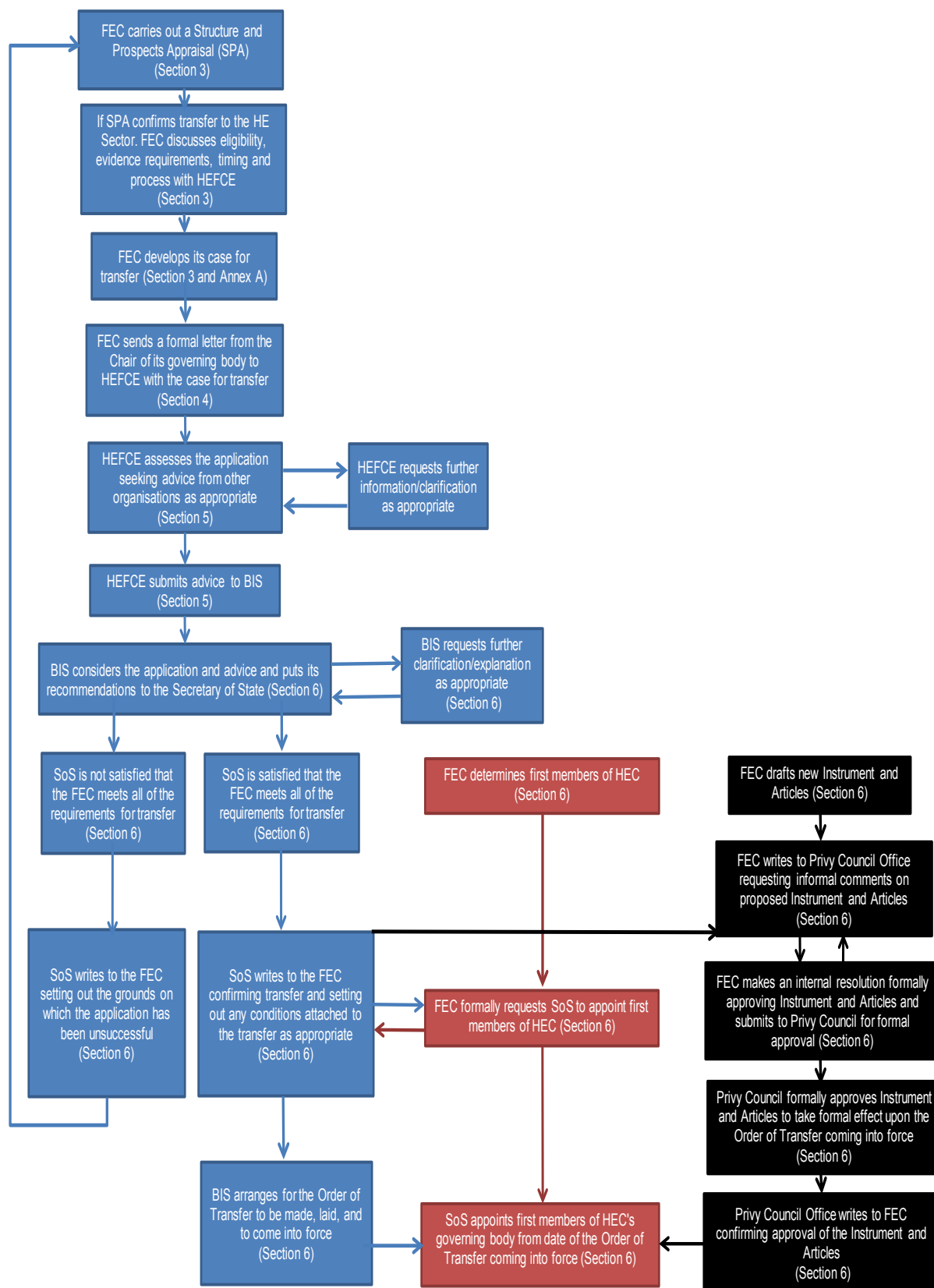
SEPTEMBER 2015

Contents

Process Flowchart	4
Introduction.....	5
Section 1: Who is eligible to apply?	6
Legislative requirement	6
Section 2: Criteria	7
Criterion 1	7
Criterion 2	7
Criterion 3: Quality assurance and academic standards and performance	7
Criterion 4: Financial sustainability	7
Criterion 5: Management.....	7
Criterion 6: Corporate governance	7
Section 3: Before making an application	8
Structure and Prospects Appraisal	8
Other issues.....	8
Section 4: Submitting an application	9
Section 5: HEFCE assessment of your application.....	10
HEFCE's advice to BIS	10
BIS consideration of HEFCE's advice	10
Section 6: Notification of decision and next steps.....	11
Successful application.....	11
Reincorporation as a Higher Education Corporation.....	11
New governing documents.....	12
Appointing the first Members of the HEC's Governing Body.....	12

Unsuccessful application.....	13
Section 7: Rights and obligations upon transfer.....	14
Eligibility for direct HEFCE funding.....	14
Designation for student support.....	14
Eligibility for funding from the Skills Funding Agency.....	14
HEFCE regulation	14
Office for Fair Access (OFFA) and Access Agreements	14
The Office of the Independent Adjudicator (OIA).....	15
Privy Council approval of Governing Documents	15
Subsequent change of legal status, delivery model or control/ownership	15
Annex: Evidence required to demonstrate eligibility and criteria	16
Legislative requirement	16
Criteria	16
Criteria 1 and 2	16
Criterion 3: Quality assurance and academic standards and performance.....	17
Criterion 4: Financial sustainability	18
Criterion 5: Management	19
Criterion 6: Corporate governance	20

Process Flowchart



Introduction

1. This guidance sets out the criteria and process for a Further Education Corporation (FEC) to transfer to the higher education sector (HE sector) and become a Higher Education Corporation. It updates and supersedes the HEFCE report 'Transfers between the further and higher education sectors' (2001). In particular it:
 - explains the criteria and process in more detail;
 - provides detail on the evidence requirements to demonstrate the criteria; and
 - takes account of the transfer of responsibility from BIS to HEFCE for administration of the process.
2. As a Higher Education Corporation (HEC) a provider is eligible to receive direct funding from HEFCE, the assumption is that it will wish to do so, and as such it will come under HEFCE regulation. The HEC will be required to agree and comply with the terms and conditions set down in the Memorandum of Assurance and Accountability that reflect HEFCE's responsibility to provide annual assurances to Parliament that:
 - funds provided to HEFCE are being used for the purpose for which they were given;
 - risk management control and governance in institutions funded by HEFCE are effective; and
 - value for money is being achieved.
3. The criteria and process for transferring to the HE sector are stringent and rigorous. They are designed to protect the interests of students and the wider public and to ensure that applicants can comply with all the requirements of the Memorandum of Assurance and Accountability upon transfer.
4. This guidance is relevant to FECs only. It is not relevant to further education colleges that are not FECs. Such institutions that wish to apply to transfer to the HE sector must follow the separate guidance '[Designation as an institution eligible to receive HEFCE funding](#)'
5. Further details and instructions on how to apply can be found on the HEFCE website at <http://www.hefce.ac.uk/reg>
6. The process is administered by HEFCE on behalf of the Secretary of State for Business, Innovation and Skills (BIS). Following receipt of advice from HEFCE, BIS assumes responsibility through to notification of the decision and the coming in to force of the Order of Transfer.
7. There is a separate process for publicly funded FECs and colleges in England who are not already in direct receipt of HEFCE funding but who offer prescribed HE courses to apply to become HEFCE funded (see [Direct funding: Guidance for applying for entry in 2016-17](#) (HEFCE 2015/12).

Section 1: Who is eligible to apply?

1. If you are an FEC in England and meet the legislative requirement below you are eligible to apply to transfer to the HE sector.

Legislative requirement

2. Section 122A of the Education Reform Act 1988 provides that the Secretary of State may by Order transfer an FEC to the HE sector if the full-time equivalent enrolment number for higher education courses¹ exceeds 55 per cent of the total full-time equivalent enrolment number.
3. The full-time enrolment number should be calculated in accordance with [section 161](#) and [Schedule 9 of the Education Reform Act 1988](#). However, satisfying this requirement does not make transfer automatic. The Secretary of State has discretion whether or not to transfer and will assess each application on its individual merits and circumstances, applying the criteria set in in Section 2.

¹ Higher education courses are programmes leading to qualifications, or credits which can be counted towards qualifications, which are above the standard of GCE A-levels or other Level 3 qualifications. They include degree courses, postgraduate courses and sub-degree courses such as those leading to HNCs or HNDs. For the full details of courses of higher education please refer to section 235(2)(e) of and Schedule 6 to the Education Reform Act 1988.

Section 2: Criteria

1. In addition to meeting the enrolment threshold (Section 1) you must meet all the following criteria.

Criterion 1

- You bring new or highly distinctive provision into the HE sector (primarily in terms of subject, but possibly also in terms of learning environment or approach), and so would add to the HE sector's diversity, but in an area which has academic credibility as a fit subject or specialism for an HE provider; and/or
- You make provision which, in subject coverage or delivery, is already found in the HE sector, but you have a standing and repute that would enhance the sector overall and/or you make provision that will add to the skills, growth or economy of your locality.

Criterion 2

You can demonstrate strong demand from students and a strong employment record.

Criterion 3: Quality assurance and academic standards and performance

We need to be assured as to the current and future management of your academic standards, the quality of your learning and teaching and your academic performance.

Criterion 4: Financial sustainability

We need to be assured that you are financially viable and sustainable with a low risk of failure on financial grounds over the medium to long term. This should give students reasonable confidence that they will not be at risk of not being able to complete their course as a result of financial failure.

Criterion 5: Management

We need to be assured that you are well managed with sound management practice in place and the capacity to develop in line with your strategic plans and the financial strategy that supports those plans.

Criterion 6: Corporate governance

We need to be assured that you are well governed and comply with the accepted principles of good governance.

2. The Annex provides information on the evidence required to demonstrate the criteria. Whilst similar to other processes, for example applying for University Title or Specific Course designation, criteria 3 - 6 and the evidence to demonstrate these have been designed to ensure that, upon transfer, you can meet all the terms and conditions of the HEFCE Memorandum of Assurance and Accountability.

Section 3: Before making an application

1. If you are considering making an application for transfer you should contact HEFCE as soon as possible to discuss eligibility, evidence requirements, likely timescales and advice on how to proceed.

Structure and Prospects Appraisal

2. Any college considering a major change to its delivery model, including a transfer to the HE sector, must undertake a Structure and Prospects Appraisal (SPA) and consider carefully and thoroughly the impact on its communities, consulting widely and transparently on its proposals, and taking explicit account of the views of the people (learners, employers and the broader community) that it serves.
3. The BIS guidance '[Structure and Prospect Appraisals](#)' sets out the process for undertaking an SPA, including the important issues that the SPA should address.
4. If the outcome of the SPA is that the FEC should apply to transfer to the HE sector, you should formally confirm that decision to the SFA and HEFCE with whom you should have been working closely throughout the process.

Other issues

5. If you are already directly funded by HEFCE you will already be known to HEFCE and/or the Quality Assurance Agency (QAA) and checks that have already been undertaken will be taken in to account. In recognition of this you should discuss the evidence requirements with HEFCE before submitting your formal application as some evidence may not need to be re-submitted.
6. In all cases the application process is rigorous and thorough and you should expect it to take up to 12 months from initial contact with HEFCE through to formal notification by the Secretary of State of the outcome (Section 6). You may ask HEFCE about progress of your application at any time, however, it is likely that you will be in close contact with HEFCE throughout the process.
7. Further information is available at: <http://www.hefce.ac.uk/reg/>

Section 4: Submitting an application

1. To apply for transfer you must submit:

- a letter from the Chair of your governing body (or equivalent) stating that your organisation considers that it meets the criteria for transfer; and
- the full Case for Transfer setting out all the evidence to demonstrate that you meet all of the criteria in Section 2 and the Annex.

2. Where possible, you are encouraged to use documentation that has been produced in the normal course of your business or that is publicly available. Please note that the responsibility for the content of and submission of the Case for Transfer rests wholly with you but HEFCE will provide advice to clarify criteria and suitability of evidence as required throughout the preparation of your Case for Transfer.

3. In processing your application HEFCE will comply with its obligations regarding access to information regimes, primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004. Consequently, as your application may include commercially sensitive information, it will be made clear to you what information is being regarded as commercially sensitive for these purposes and what is not, and, where objections arise, HEFCE will judge each case on its merits.

4. You should submit your application by following the instructions at: www.hefce.ac.uk/reg

Section 5: HEFCE assessment of your application

1. HEFCE will carry out a detailed assessment of your application for transfer against the criteria set out in Section 2 and the Annex. In doing so it will consider all relevant information including advice received from other interested parties as appropriate, for example, the Skills Funding Agency (SFA), QAA and the Charity Commission where you are a registered charity.
2. You must be prepared to engage with HEFCE during its assessment and to submit such other information as HEFCE may reasonably request in connection with your application.
3. The assessment process is thorough and rigorous and checks, for example with the SFA and through web searches, will be performed to verify the information provided in the application. Further reports will not normally be commissioned during the process, but reference may be made during the assessment process to information published by organisations such as the Skills Funding Agency (SFA), the Office of the Independent Adjudicator for Higher Education, and the Higher Education Statistics Agency (HESA) and the National Student Survey (NSS).
4. In some cases it may also be necessary for HEFCE to schedule one or more visits to inform its assessment, in particular its assessment of your estates and data management (criterion 5).
5. Where you have direct HEFCE funding you should note that this does not necessarily mean that you will meet all the criteria for transfer to the HE Sector. This could be because, for example, the latter requires the applicant to demonstrate its readiness to comply with all the terms and conditions of the Memorandum of Assurance and Accountability which go beyond the requirements for direct funding.

HEFCE's advice to BIS

6. Following its detailed consideration of your application and approval by its Board, HEFCE will submit its formal advice on all aspects of your application to BIS to inform the Secretary of State's decision.

BIS consideration of HEFCE's advice

7. If, having considered all the advice received, BIS has any concerns about your application you will be informed of the outcome of the assessment and given the opportunity to provide further clarification and explanation before advice is submitted to the Secretary of State and a final decision made.
8. On the basis of all the advice received, including, as appropriate, any additional clarification and explanation as above, the Secretary of State will take a view as to whether you meet all the criteria for transfer from the further education to the higher education sector.

Section 6: Notification of decision and next steps

Successful application

1. If the Secretary of State approves your application BIS will write to you to confirm that you meet the criteria and, as appropriate, setting out any conditions attaching to the transfer.
2. The Secretary of State will lay an Order of Transfer before Parliament which will usually come into force 21 days after laying². It is only at this point that the transfer takes legal effect. The decision letter will confirm the process and timing for laying the Order.

Reincorporation as a Higher Education Corporation

3. Section 122A of the Education Reform Act 1988 provides for an FEC, upon transfer to the HE sector, to be established as a Higher Education Corporation (HEC) and empowers the Secretary of State to appoint the first members of the HEC.
4. On the date that the Order of Transfer comes into force the new HEC must have had its governing documents approved and its first members appointed (see below).
5. To ensure that all of this is in place on the date that the HEC comes into legal existence you should discuss and agree the timing for this element of the process with BIS immediately you have submitted your formal application to HEFCE. The contact is:

Martin Courbet
 Senior Policy Adviser
 Higher Education Directorate
 Department for Business, Innovation and Skills
 Abbey 1 / 5th Floor
 1 Victoria Street
 London SW1H 0ET

Email: Martin.Courbet@bis.gsi.gov.uk
 Tel: 020 7215 3435

² The Order is subject to negative resolution procedure and must be laid before Parliament for a minimum of 21 days before it comes into force. It is also subject to possible annulment for a total of 40 days. Annulment means that the Order can be revoked if either House passes a resolution annulling it within 40 days. Any member of either House can put down a motion that an instrument can be annulled. You are therefore advised to delay making a formal announcement on transfer until the full 40 days has expired.

New governing documents

6. The new HEC must have its instrument and articles of government in place on the day that the Order of Transfer comes into force. These must have been:
 - prepared in accordance with the requirements in sections 124A, 125, and Schedule 7A of the Education Reform Act 1988; and
 - formally approved by the Privy Council beforehand in accordance with sections 124A and 125 of the Education Reform Act 1988.
7. It is recommended that you send your proposed new governing documents to the Privy Council for informal comments in advance of a formal resolution by your governing body and submission to the Privy Council for formal approval.
8. The Privy Council approval process, including the initial informal approach for comments, could take at least eight weeks.
9. It is therefore recommended that that you give consideration to your draft instrument and articles at an early stage.
10. You should contact the Privy Council Office at:

Senior Clerk with responsibility for Higher Education
 Privy Council Office
 2 Carlton Gardens
 London
 SW1Y 5AA

Telephone 0207 747 5301
 Email: pcosecretariat@pco.gov.uk

Appointing the first Members of the HEC's Governing Body

11. The appointment of the first Members of the HEC must occur in accordance with section 122A(2)(b) of the Education Reform Act 1988, the SoS being the appointing authority.
12. Upon receipt of the letter from BIS formally confirming that you meet the criteria for transfer to the HE sector you should reply requesting that he/she appoint the first members of the HEC to enable the Corporation to be quorate and so be able to appoint further members immediately upon the Order of Transfer coming into force.
13. The letter should:
 - include the names and addresses of the proposed appointees;
 - confirm that at least half of them are independent, including the Chair; and
 - confirm that the proposed appointees have been informally contacted and have indicated that they are content to serve.
14. If the Secretary of State is content he/she will write to each of the appointees enclosing copies of the HEC's approved instrument and articles of government, and confirming

that the appointments take effect from the date that the Order of Transfer comes into force.

Unsuccessful application

15. If the Secretary of State considers that the criteria for transfer have not been met, BIS will write to you confirming that the application has been unsuccessful and setting out the reasons for the decision.

Section 7: Rights and obligations upon transfer

Eligibility for direct HEFCE funding

1. Whilst the Secretary of State has the power to transfer an FEC to the HE sector, HEFCE has the power to fund institutions and to make allocation decisions. HEFCE will allocate funding in line with the funding allocation model in use at the time.
2. Funding follows the academic year and normally begins on 1 August following designation.

Designation for student support

3. Eligible HE courses at HEFCE funded institutions are automatically designated under the Education (Student Support) Regulations 2011 (as amended) and as such their students are eligible for student loan support. Further information can be found on the Student Loans Company HE Partners web pages <http://www.heinfo.slc.co.uk/> and at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/450090/BS-15-440-guidance-for-alternative-higher-education-providers.pdf

Eligibility for funding from the Skills Funding Agency

4. An FEC transferring to the HE sector would still be eligible for funding from the Skills Funding Agency but would no longer be funded under the Financial Memorandum but instead under a Conditions of Funding Grant https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414797/Funding_Rules_v2_March_2015.pdf

HEFCE regulation

5. HE providers in the HE sector and in receipt of direct HEFCE funding are subject to regulation by HEFCE and must sign up to the Memorandum of Assurance and Accountability. Further information can be found at <http://www.hefce.ac.uk/reg/MAA/>
6. Such providers are also expected to demonstrate how they are accountable for their access to the publicly subsidised student support system. This is done through the voluntary [Agreement on Institutional Designation](#), which is signed by representative bodies on behalf of individual providers or by the provider if it is not a member of a representative body. The Agreement makes the link between institutional accountability requirements and automatic designation for student support more explicit and sets out a process for addressing non-compliance with accountability measures.

Office for Fair Access (OFFA) and Access Agreements

7. Fees for undergraduate courses at HE providers in receipt of HEFCE funding are regulated. They may set fees above the basic level (£6,000 for full-time courses in 2015-16) and up to a limit of £9,000, if they have an access agreement with the Director of Fair Access to HE. Access agreements set out how a provider intends to safeguard and promote fair access to HE through its outreach work and financial support. Further

information can be found at <http://www.offa.org.uk/universities-and-colleges/introducing-access-agreements/>

8. You may therefore wish to engage with OFFA prior to your transfer to the HE sector taking effect if you wish to apply for an access agreement and for this to be effective upon, or shortly after, transfer.

The Office of the Independent Adjudicator (OIA)

9. All HE providers whose courses are eligible for student support are required to be members of the [Office of the Independent Adjudicator](#) for HE, the independent body set up to review student complaints.

Privy Council approval of Governing Documents

10. All amendments, however minor, to the governing documents of an HEC must be submitted to the Privy Council for approval and must be approved by the Council before they can take effect. The contact point for discussion of this process is:

Senior Clerk with responsibility for Higher Education
Privy Council Office
2 Carlton Gardens
London
SW1Y 5AA

Telephone 0207 747 5301
Email: pcosecretariat@pco.gov.uk

Subsequent change of legal status, delivery model or control/ownership

11. As an HEC, if at any point you are considering a change to your legal status, delivery model or control/ownership (including where a merger is being considered) you should contact HEFCE as soon as possible to discuss the possible implications on your continued eligibility for HEFCE funding. As appropriate, this may also have implications if you hold degree awarding powers or university or university college title and these should be discussed with HEFCE at the same time.

Annex: Evidence required to demonstrate eligibility and criteria

Legislative requirement

1. To meet the legislative requirement (see Section 1) you must provide evidence to demonstrate that 55 per cent of your total full-time equivalent students are studying courses of higher education. The full-time equivalent enrolment number should be calculated in accordance with [section 161](#) and [Schedule 9 of the Education Reform Act 1988](#).
2. As far as possible, HEFCE will base its assessment on information from HESA. You do not, therefore, need to submit any additional information with your application unless requested to do so by HEFCE at any time.

Criteria

3. In your Case for Transfer you are required to demonstrate how you meet the criteria set out in Section 2. Criteria 3 – 6 and the evidence to demonstrate these have been designed to ensure that, upon transfer, you can meet all the terms and conditions of the HEFCE Memorandum of Assurance and Accountability.

Criteria 1 and 2

4. These criteria should be demonstrated in a self-assessment that outlines which of the aspects of the criteria are being addressed and how you meet them. Your assessment should include a comparison of provision against the existing sector. Reference to data on applications over earlier academic cycles and the employment of graduates should be made and the data provided, unless this is already available from HESA in which case you should state where this is the case.
5. When considering whether you meet these criteria, HEFCE will consider whether you are:
 - addressing a 'cold spot';
 - offering provision that is otherwise not available locally, regionally or nationally;
 - offering a model of delivery which provides students with a choice of study not available locally or regionally;
 - offering higher or degree apprenticeships;
 - offering HE provision which meets their local enterprise partnership priorities;
 - recruiting students from low participation areas;
 - making other contributions to the distinctiveness of HE;
 - making other contributions to the enhancement of HE;
 - making contributions to the local economy.
6. You do not need to demonstrate that you make a contribution to all of these areas in order to meet the criteria.
7. Some of the evidence required to demonstrate these criteria may have been covered in your SPA (Section 3). You should therefore discuss with HEFCE at the outset what

additional evidence will be required to demonstrate these criteria.

Criterion 3: Quality assurance and academic standards and performance

8. You need to demonstrate the current and future management of your academic standards, the quality of your learning and teaching and your academic performance.
9. You must satisfy this criterion before applying for designation for HEFCE funding. This means having a published report for a successful quality assessment review by QAA prior to application. If your application is successful you must continue to satisfy this criterion, meaning you must comply with HEFCE's quality assessment arrangements. Applicants are likely to already have a current (within three years) QAA review and HEFCE will have access to its outcomes. If longer you should discuss the position with HEFCE at your pre-application discussion and agree what action might be needed. At the same time you should discuss with HEFCE whether the form of review you have still meets HEFCE requirements.
10. If you have not had a quality assessment review you should speak to QAA to arrange one. This can take several months to arrange and for the outcome to be determined. Detailed information on the Higher Education Review quality assurance framework for alternative providers and how to apply can be found at <http://www.qaa.ac.uk/en/ReviewsAndReports/Pages/RSCD.aspx>
11. HEFCE will also ask QAA if there is anything else known about you that could be relevant to their assessment of your application for example whether QAA has activated its concerns procedure in the preceding three years.
12. If you are being investigated under QAA's concerns procedure your application for designation cannot proceed until the outcome of the investigation is known. This may have a bearing on the outcome of your application.
13. Where you are a member of the Office of the Independent Adjudicator for HE (OIA) you should also include in your application details and the outcome of any complaints made to the OIA in the preceding three years.
14. You should also inform HEFCE of any provision that is professionally accredited and provide summaries of the most recent reports with the application.
15. If you do not have degree awarding powers, validation contracts and/or approval agreements should be included with the application.
16. Consideration will also be given to your academic performance and track record. As such, in its assessment of your quality and academic standards HEFCE will take into account data on your student retention, completion and satisfaction. Where appropriate data from the National Student Survey will be examined as well as any other available information on your student retention and completion, for example, data from the Individualised Learner Record or Student Loans Company for alternative providers. If you do not contribute data to HESA, or you believe that the available information may be incomplete, you should include with your application internal data on your student retention and completion. This should be verified by your validating or awarding partners.

17. HEFCE will also take into account any other relevant known information that could impact on its assessment against this criterion.
18. You can, where you feel it appropriate, provide any additional information on your academic standards, quality of learning and teaching or academic performance with your application.
19. HEFCE is currently consulting on quality assessment arrangements for HEFCE-funded providers with anticipated changes being introduced in 2017/18 following a pilot year in 2016/17. More information can be found at <http://www.hefce.ac.uk/reg/review/>

Criterion 4: Financial sustainability

20. You need to demonstrate that you are financially viable and sustainable with a low risk of failure on financial grounds over the medium to long term. This should give students reasonable confidence that they will not be at risk of not being able to complete their course as a result of financial failure.
21. As appropriate the assessment of financial sustainability may take in to account the financial arrangements of any group structure (including subsidiary and parent/holding companies) or linked organisation where it is considered relevant to your financial sustainability. You should therefore set out clearly in your application the details of any structure, companies or organisations.
22. As far as possible reliance will be placed on financial data and information that you have produced to meet your own needs or those of the SFA, however it may sometimes be necessary to request additional financial details in order to consider fully the issues identified above. You should discuss the evidence requirements in this area with HEFCE before preparing your Case for Transfer.
23. You must demonstrate in your Case for Transfer:
 - a track record of financial performance as evidenced by the annual reports and externally audited financial statements for the three years prior to the application³. The accounts must be audited each year by a registered auditor⁴. This must not be the same firm and/or individual that prepared the accounts to ensure that BIS can have full confidence in the audit⁵. The basis of the accounts and forecasts will be Generally Accepted Accounting Practice in the UK (UK GAAP) (or successor requirements) or International Financial Reporting Standards (IFRS) if appropriate. You must be able to demonstrate that you:

³ In cases where the latest financial statements have been prepared but not yet audited and signed off, these should be submitted as part of the evidence on an in-confidence basis. It is important that the financial assessment is based on the latest financial information available. The final audited accounts should be submitted as soon as signed off.

⁴ The register of statutory auditors can be found at <http://www.auditregister.org.uk/Forms/Default.aspx>. It is the provider's responsibility to ensure that the audit firm and the auditor signing off the audit opinion are listed on the register

⁵ Where the provider's own finance team provides all book-keeping services and the auditor simply translates the trial balance produced by the provider into the statutory format of the accounts, it is acceptable for the same firm to provide these services.

- have adequate cash flow to remain solvent i.e. you have sufficient liquidity to pay your debts as they fall due; and
- have an adequate balance sheet i.e. maintain a net total assets position and not incur deficits if these would result in a net total liabilities position.
- that you have a financial strategy that reflects your overall strategic plan, sets appropriate benchmarks and performance indicators, shows how resources are to be used, and how activities and infrastructure will be financed. This should include how you assess and review your own sustainability, including the use of sustainability assessments. You should submit as part of your evidence your business plan and full financial forecasts for the current year and future three years. The evidence should include a commentary on the assumptions being made and how any financial risks are being managed.

24. In order to assess the full financial position and performance the application must also cover all other relevant contextual information.

25. Financial tables and a template for the commentary are available from HEFCE.

26. As far as possible reliance will be placed on financial data and information that you have produced to meet your own needs, however, it may sometimes be necessary to request additional financial details in order to consider fully the issues identified above.

27. The assessment of your financial performance and sustainability will not be used in isolation to determine whether you meet this criterion. The financial sustainability assessment will be an overall judgement that also takes into account the context of your financial position including from your strategic or business plan.

28. Unless otherwise agreed with HEFCE, the financial analysis must be based on [SORP: Accounting for Further and Higher Education](#) as this would help HEFCE to assess your financial sustainability against the standards for HE providers already in the HEFCE funded sector.

Criterion 5: Management

29. You need to demonstrate that you are well managed with sound management practice in place and the capacity to develop in line with your strategic plans and the financial strategy that supports those plans.

30. You must therefore provide evidence to demonstrate that you:

- plan and manage your activities to remain sustainable and viable;
- have robust and comprehensive systems of risk management and internal control;
- have effective arrangements for the management and quality assurance of data used for internal decision making;
- have regular, reliable, timely and adequate information to monitor operational and financial performance;
- manage your estate in a sustainable way in line with an estates strategy and the requirements of HEFCE's Capital Investment Framework; and

- be able to meet all the necessary data capture and reporting requirements for HEFCE including those administered by the Higher Education Statistics Agency (HESA). These include but are not limited to:
 - the annual HESES survey;
 - student, student destination, staff, estates, and business and community interaction data to HESA;
 - provision of data to support public information requirements;
 - annual data collections to support the transparent approach to costing;
 - annual accountability return.

31. In assessing the data management capabilities consideration will be given to your track record in submitting data to HEFCE or other bodies including HESA, the Skills Funding Agency or the Student Loans Company. HEFCE is likely to undertake a data audit visit as part of the assessment process.

Criterion 6: Corporate governance

32. You need to demonstrate that you are well governed and comply with accepted principles of good governance.

33. You must therefore demonstrate that you can comply, upon designation, with the principles of the [Higher Education Code of Governance](#) (Committee of University Chairs, December 2014) and the requirements of the Memorandum of Assurance and Accountability.

34. If you do not already comply with the Higher Education Code of Governance you should discuss with HEFCE at the outset how you might demonstrate this criterion.

35. In addition you must demonstrate that you:

- comply with the statutory requirements relating to external audit; and
- are owned, managed and run by 'fit and proper persons' by providing:
 - a. evidence of your organisation's identity and that of key individuals (for example, the Principal, directors, shareholders, trustees); and
 - b. evidence that your directors (if a company) or trustees (if a charity) are eligible to act and have not been disqualified from acting as directors or trustees.

36. Where you are, or expect to be, a charity you will need to take account of guidance on the responsibilities of trustees and effective trusteeship to be found the [Charity Commission](#) website.



© Crown copyright 2015

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication available from www.gov.uk/bis

Contacts us if you have any enquiries about this publication, including requests for alternative formats, at:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000
Email: enquiries@bis.gsi.gov.uk

BIS/15/522